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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/750,505

12/31/2003

Denise J. Nelson

17,858.2

1813

23556 7590 10/17/2007  
KIMBERLY-CLARK WORLDWIDE, INC.  
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EXAMINER

TAWFIK, SAMEH

ART UNIT

PAPER NUMBER

3721

MAIL DATE

DELIVERY MODE

10/17/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/750,505	Applicant(s) NELSON ET AL.	
	Examiner Sameh H. Tawfik	Art Unit 3721	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8,10-19,21,22,35-39,41-46 and 48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8,10-19,21,22,35-39,41-46 and 48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

In view of the Appeal Brief filed on 07/23/2007, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

A handwritten signature in black ink, appearing to read 'Rinaldi Rada', with a long horizontal flourish extending to the right.

Rinaldi Rada  
Supervisory Patent Examiner  
Art Unit. 3721

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8, 10-19, 21, 22, 35-39, 41-46, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kao (JP 10-095,481).

Kao discloses a method of folding a disposable absorbent article (Fig. 2), the article having an initial upper surface, an initial lower surface, a longitudinal centerline, a transverse centerline, opposing first longitudinal side edges opposing first transverse end edges and an unfolded configuration (Figs. 1 and 7), the method of folding comprising forming one fold extending in a transverse direction (Figs. 6 and 7) by bringing a portion of the initial upper surface into a facing relationship with another portion of the initial upper surface, the one fold being spaced between opposing first transverse end edges (Figs. 6 and 7), the resulting partially-folded article having an intermediate first surface, an intermediate second surface and opposing second transverse end edges, and thereafter forming a number, greater than one, of transversely extending folds in an accordion-like manner (Fig. 6), the transversely extending accordion-like folds being spaced between opposing second transverse end edges (Fig. 6), and thereby forming a folded article having a folded configuration area and an unfolded configuration area (Figs. 5-7).

Kao does not disclose that a ratio between the folded configuration area and an unfolded configuration area of no more than 0.14, 0.08, and/or no more than 0.04. However, Kao

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discloses unfolded and folded article as shown in Figs. 5-7 and a ration between a folded configuration and the unfolded configuration via thickness of no more than 0.15, see for example the English translation of Kao; paragraph 0019 "If the thickness ratio becomes less than 15%, the diaper becomes hard and the texture worsens."; *note that in the filed specification of the invention; ;age 11, lines 20-22, applicants point out to the ratio of being "0.15; alternatively, no more than 0.14;" which is obvious that the exact ratio is not that critical and could be 0.15.*

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Kao's method by having the ratio to be no more than 0.14, 0.08, and/or 0.04 between the folded and unfolded area as seen in Figs. 5-7, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

Regarding claims 2 and 13: wherein the number of accordion-like transverse extending folds is an even number (Fig. 6).

Regarding claims 3, 14, and 26: wherein the number of accordion-like transverse extending folds is 2 (Fig. 6).

Regarding claims 4, 15, and 27: wherein the one fold extending in a transverse direction is locate substantially adjacent the transverse centerline (Fig. 6).

Regarding claims 5, 16, and 28: wherein the accordion-like transverse extending folds are spaced substantially equally between opposing second transverse end edges (Fig. 6).

Regarding claims 7, 11, 18, and 22: the folded article is an infant diaper (Figs. 5-7).

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Regarding claims 8 and 17: wherein the accordion-like transversely extending folds are spaced substantially equally between opposing second transverse end edges (Fig. 6).

Regarding claim 12: Kao discloses the step of forming at least one longitudinally extending fold in each side margin by folding each first longitudinal side edge inward toward the initial upper surface and thus bringing a portion of the initial upper surface into facing relationship with another portion of the initial upper surface (Fig. 5; via longitudinal folds).

Regarding claims 36 and 43: the number of transversely extending accordion-like folds is an odd number (Fig. 6).

Regarding claim 37: Kao does not disclose that the accordion-like folds are odd number greater than 4. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Kao's accordion-like folds to be more than 4 folds, in order to reduce the packaging space length wise, since it has been held that mere duplication of the essential parts involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Alternatively, it would have been an obvious matter of engineering design choice to have modified Kao's accordion-like folds to be more than 4 folds, in order to reduce the packaging space, since applicant has not disclosed that 5 folds solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with Kao's folds as shown in Fig. 6.

Regarding claims 39 and 46: Kao discloses that the transversely extending accordion-like folds are spaced substantially equally between opposing first transverse end edges, see for example (Fig. 6).

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Regarding claims 41 and 48: Kao discloses that the folded article is an infant diaper (Figs. 2, 5, 6, and 7).

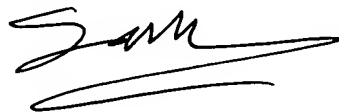
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is 571-272-4470. The examiner can normally be reached on Tuesday - Friday from 9:00 AM to 7:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sameh H. Tawfik  
Primary Examiner  
Art Unit 3721



ST.